

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1744

In the Matters of)
)
NORTHWEST NATURAL GAS COMPANY)
dba NW NATURAL,)
)
Application for Approval of an Emission)
Reduction Program)
)
_____)

**TESTIMONY OF EDWARD A. FINKLEA
ON BEHALF OF NORTHWEST INDUSTRIAL GAS USERS**

August 28, 2015

1 **Q. PLEASE STATE YOUR NAME AND YOUR EMPLOYER.**

2 **A.** My name is Edward A. Finklea, and I am an attorney serving as the Executive Director
3 of the Northwest Industrial Gas Users (“NWIGU”).

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND
5 EXPERIENCE.**

6 **A.** My resume is attached as Exhibit 101 to this testimony.

7 **Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

8 **A.** I am appearing on behalf of NWIGU. NWIGU member companies purchase sales and
9 transportation service from Oregon local distribution companies (“LDCs”), including
10 Northwest Natural Gas Company (“NW Natural” or the “Company”).

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 **A.** The purpose of my testimony is to address the filing made by NW Natural to provide
13 incentives for customers to install Combined Heat and Power (“CHP”) facilities inside
14 customers’ operations as a way to reduce carbon dioxide emissions.

15 **Q. DO THE NORTHWEST INDUSTRIAL GAS USERS SUPPORT THE FILING
16 MADE BY NW NATURAL?**

17 **A.** In general NWIGU supports the filing made by NW Natural. NWIGU recommends a
18 lower incentive for NW Natural as compensation for operating the program. NWIGU
19 recommends that the Commission set the utility incentive at \$5.00 per ton of carbon
20 dioxide reductions, rather than \$10.00 per ton. The \$30.00 per ton incentive for the
21 customer appears appropriate for the program to be successful. However, the incentive
22 could be lowered slightly if, in the Commission’s judgment, it appears that significant
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1 investments in CHP would be attractive and incentivized even with a slightly lower
2 payment to the customer. In my view, the customer incentive should not be higher than
3 \$30.00 and the total cost to ratepayers should not exceed \$35.00 per ton.

4 **Q. WHY DOES NWIGU SUPPORT THE FILING?**

5 **A.** NWIGU supports implementation of SB 844. Oregon local distribution companies
6 (“LDCs”) should offer incentives to customers for investments in carbon reducing
7 measures through the incremental use of natural gas, so long as the programs are cost-
8 effective and result in reduced carbon dioxide emissions. The CHP program proposed by
9 NW Natural is consistent with the intent of SB 844 because NW Natural would be
10 incentivizing energy consumers to use natural gas in a manner that reduces carbon
11 dioxide emissions. By enacting SB 844, the Oregon legislature recognized that natural
12 gas can be used to reduce carbon dioxide emissions through fuel switching. When an end
13 user installs CHP, it goes from purchasing electricity from its electric utility to generating
14 its own electricity from natural gas.

15 I have been involved in the SB 844 rulemaking and implementation process and
16 attended nearly every stakeholder meeting held by NW Natural concerning SB 844
17 programs. I am not aware of any carbon reduction measures (that fit the definitions in SB
18 844) that are more cost-effective than incentivizing investment in CHP. The incentive of
19 \$30 per ton of carbon dioxide reduced as proposed by NW Natural is far lower than the
20 cost of other measures that have been discussed in the stakeholder process, including but
21 not limited to converting residential oil furnaces, investing in biogas projects, investing in
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1 natural gas for use as a transportation fuel, and the methane emission reduction measures
2 that have been explored.

3 Because ratepayer money is being used to support the proposed investments, the
4 Commission should only approve SB 844 projects that are a cost-effective way to reduce
5 carbon dioxide or other greenhouse gas emissions. However, there is not a bright-line
6 way to measure what is a cost-effective greenhouse gas reduction measure, in contrast to
7 conservation or demand side management programs where the Commission can measure
8 against the cost of the energy being conserved. So the cost-effective judgment for carbon
9 reduction under SB 844 must be made by comparing the proposed program to other
10 carbon reduction measures.

11 In my judgment, if NW Natural paid customers no more than \$30.00 per ton, and
12 charged an additional \$5.00 per ton as its own incentive to launch, administer and
13 implement the program, NW Natural's ratepayers would be making a cost-effective
14 investment in greenhouse gas emission reductions. This is the type of voluntary carbon
15 reduction program under SB 844 that NWIGU can support. Natural gas throughput is
16 increased, fixed costs are recovered from the increased consumption, and greenhouse
17 gases are reduced on a cost per ton basis that is in a reasonable range for carbon reduction
18 costs for an SB 844 program. My conclusion is based on my review of the programs that
19 have been identified throughout implementation of the SB 844 rules, and during the NW
20 Natural stakeholder processes to date.

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1 **Q. IN YOUR OPINION, DO CUSTOMERS NEED AN INCENTIVE SUCH AS THAT**
2 **PROPOSED BY NW NATURAL, IN ADDITION TO THE INCENTIVES**
3 **ALREADY AVAILABLE, IN ORDER TO INVEST IN CHP FACILITIES IN**
4 **OREGON?**

5 **A.** In my opinion, yes. The history of deployment of natural gas fired CHP in Oregon
6 strongly suggests that current programs do not offer enough of an incentive for many
7 customers to make the needed capital investments in such facilities. Natural gas fired
8 CHP has been a favored resource of energy planners for many decades. CHP is a highly
9 efficient way to generate the combination of industrial processes--steam, hot water for
10 industrial applications and electricity. However, CHP is deployed far less in Oregon than
11 in many other parts of the United States. The regional electric rates relative to natural gas
12 costs, or the so-called spark spread, is often mentioned as the reason for the lack of
13 investment in natural gas fired CHP in Oregon. Further, the number of years it takes to
14 recoup the investment in CHP through lower overall energy costs is longer than most
15 companies can justify, with multiple demands within companies for capital investments.
16 While there are natural gas fired CHP facilities at some locations in Oregon, I am not
17 aware of any industrial facility that is moving forward at this time with the installation of
18 a natural gas fired CHP unit in Oregon, despite the historically low price of natural gas.

19 There are incentives for natural gas fired CHP offered through the Energy Trust
20 of Oregon ("ETO"). I am not versed in the specifics of the ETO program, but my
21 understanding is that the ETO program has not resulted in much investment to date. The
22 incentive NW Natural would offer would be in addition to, not instead of, the ETO
23 incentive.

1 **Q. WHY SHOULD GAS RATEPAYERS INCENTIVIZE AN ELECTRIC**
2 **GENERATING INVESTMENT?**

3 **A.** SB 844 authorizes Oregon LDCs to invest in equipment at customers' facilities that
4 increases the consumption of natural gas if the new equipment facilitates the reduction of
5 carbon emissions. Since the direct use of natural gas in a CHP unit is more efficient than
6 using the natural gas to generate electricity off site, there is a quantifiable carbon dioxide
7 emission reduction from the investment. There is no equivalent SB 844 program that
8 applies to electric utilities.

9 Under SB 844, there must be a benefit to all utility customers from the voluntary
10 carbon reduction program. In this case, the benefit is the increased throughput on the
11 NW Natural system that spreads the collection of fixed costs associated with delivering
12 natural gas. There are also benefits to electric customers by reducing the need for base
13 load resources to meet the electric demands that the CHP facilities would serve. Those
14 benefits are presumably captured in the level of incentive offered by ETO.

15 Gas ratepayers only realize a direct benefit due to the incremental throughput of
16 gas on the NW Natural system. However, the Oregon legislature has authorized Oregon
17 LDCs to make investments to reduce carbon dioxide emissions so long as there is some
18 customer benefit from the investment. NWIGU understands the desire to reduce carbon
19 dioxide emissions. Incentivizing such reductions, as opposed to simply taxing carbon
20 dioxide emissions or mandating their reduction and requiring the purchase of offsets, is a
21 preferable strategy for a state to follow in the pursuit of carbon dioxide reductions.

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1 Under NW Natural's proposal, ratepayer money is only spent if real, measurable
2 carbon dioxide emission reductions are achieved. A carbon tax or cap and trade system
3 would raise the price of consuming natural gas in Oregon without any assurance that
4 there would be any meaningful reduction in carbon dioxide emissions. Thus, NWIGU
5 views incentivizing carbon reductions through measures such as the one proposed in this
6 docket by NW Natural as a responsible and preferable alternative to a carbon tax or cap
7 and trade system at the state level. Ratepayer dollars should only be used, however,
8 when meaningful carbon dioxide emission reductions are achieved at a reasonable cost
9 per ton. In my judgment the proposal by NW Natural, with the adjustments I
10 recommend, meets that standard.

11 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

12 **A.** Yes.

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OF
EDWARD FINKLEA
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NORTHWEST INDUSTRIAL GAS USERS**

August 28, 2015

Edward A. Finklea

326 Fifth Street
Lake Oswego, OR 97034

503-303-4061 – office
503-413-0156 – cell
E-mail: efinklea@nwigu.org

Primary Professional Experience

Lead counsel for the Northwest Industrial Gas Users (“NWIGU”) from 1986 until 2008 in all regulatory interventions concerning Williams Gas Pipeline West and TransCanada Gas Transmission Northwest, and before state regulatory commissions concerning regulation of the five regional natural gas local distribution companies (“LDCs”).

Represented NWIGU before the Federal Energy Regulatory Commission in interstate pipeline rate and certificate proceedings, before the Oregon Public Utility Commission in natural gas rate and other regulatory proceedings, before the Washington Utilities and Transportation Commission in natural gas rate, safety and other regulatory proceedings and in proceedings before the Idaho Public Utility Commission.

Employment History

Executive Director for the Northwest Industrial Gas Users, August 2012 to present

Adjunct Professor at Northwestern School of Law, Lewis and Clark College “Law and Economics” Current

Senior Counsel, NiSource Corporate Services Inc.
Regulatory counsel to interstate pipeline, representing company before Federal Energy Regulatory Commission and advising company on federal regulatory compliance and business transactions. November, 2009 to November, 2011

Executive Director, Energy Action Northwest. Organization advocated for siting and permitting of interstate pipelines, liquefied natural gas terminals, and high voltage transmission projects in Oregon and Washington. Represented organization before state legislature and in media relations. July, 2008 to October, 2009

Partner, Cable Huston Benedict Haagensen & Lloyd. Private law practice specializing in energy law. 2004 until July 2008.

Managing Partner, Energy Advocates LLP. Founded firm with offices in Portland, OR and Washington D.C. 1997-2003

Partner, Ball Janik LLP. 1994-1997

Partner, Heller Ehrman White & McAuliffe. 1990-1994

Partner, Tonkin Torp Galen Marmaduke & Booth. 1986-1990

Associate, Garvey Schubert. 1986-1988

Assistant General Counsel to Northwest Natural Gas handling state regulatory matters and providing counsel to the company on energy projects, including a landfill gas project. 1984-1986

Counsel to the Bonneville Power Administration litigating electric rate issues in administrative hearings and defending BPA before the Ninth Circuit Court of Appeals. 1982-84

Trial Attorney for the Federal Energy Regulatory Commission in hydroelectric licensing and co-generation regulation. 1981-82

Law Clerk for the Council on Wage and Price Stability, Executive Office of the President of the United States. 1980-81

**Summary of
Professional
Engagements**

Represented Columbia Gulf Transmission in general rate proceeding before the Federal Energy Regulatory Commission.

Represented applicants in proceeding before Federal Energy Regulatory Commission seeking authorization to provide incentive fuel mechanism and natural gas hub services.

Represented industrial gas consumers in contract negotiations for the purchase of natural gas commodity and interstate pipeline services.

Counsel to a medical center interconnecting a cogeneration plant with an investor-owned utility and advising client on long-term gas purchasing arrangement for electric generation.

Represented numerous clients to secure direct connections to interstate pipelines, addressing all regulatory issues involving

certification of connecting facilities and operations of private pipelines.

Represented liquefied natural gas developer in governmental relations associated with securing federal and local permits for development of an energy project.

Represented customers in negotiating special contracts for purchasing natural gas distribution services from local utilities.

Represented public port authority in a pipeline siting issue.

Represented Eugene Water and Electric Board in select issues concerning Bonneville Power Administration.

Represented irrigation farmers in electric rate dispute involving FERC-licensed hydroelectric project before the Oregon Public Utility Commission.

Represented clients in trial court and appellate litigation on energy-related issues.

Represented industrial customer in anti-trust litigation and FERC refund proceedings stemming for 2000-2001 Western Energy Crisis.

Represented industrial electric customers in the restructuring of electric utilities in Oregon.

Represented an oil company shipper on an intrastate oil pipeline in rate proceeding before the Washington Utilities and Transportation Commission.

Individual clients while in private practice in addition to NWIGU included Alcoa, Armstrong World Industries, Blue Heron Paper, Boeing, ESCO, James River Paper (now Georgia Pacific) JR Simplot, Legacy Health Systems, MicroChip Technology, NorthernStar Natural Gas, Texaco Gas Marketing, Valley Medical Center, WaferTech, Wah Chang, West Linn Paper, and Weyerhaeuser.

Education

BA in Political Science from the University of Minnesota
1974

J.D. Northwestern School of Law, Lewis and Clark College
1980

**Professional
Memberships**

Admitted to practice law in the States of Oregon and Texas and before several Federal district and appellate courts.

Adjunct Professor at Northwestern School of Law, Lewis and Clark College "Northwest Energy Law". 1984 to 2005

Past Chairman of "Energy, Telecom and Utilities" section of the Oregon State Bar.

Member of the Federal Energy Bar Association.

Lecturer: Buying and Selling Electric Power in the West, Law Seminars International Conference. Presentations on natural gas industry. 2004 to 2009.